

**FREQUENTLY ASKED QUESTIONS (FAQ'S) for
Public Employee Communication Chapter of AB 119**

Requesting Interest Arbitration Over Access to New Employee Orientation Negotiations

- Q. After beginning negotiations over the structure, time, and manner of the exclusive representative's access to new employee orientation, when may a public employer and/or the exclusive representative request interest arbitration over these issues if no agreement is reached?
- A. The parties may mutually agree to submit their dispute to interest arbitration at any time or either party may unilaterally make a demand for interest arbitration if any dispute has not been resolved within the "negotiation period". The "negotiation period" is either the 45-day period after the first meeting of the parties or the 60 day period after the initial request to negotiate, whichever comes first. However, the arbitrator selection process must "commence not later than 14 days prior to the end of the negotiation period."
- Q. Who may serve as an arbitrator?
- A. The public employer and the exclusive representative may mutually select any individual to be an arbitrator. Additionally, the arbitrator may be selected from a list of seven arbitrators provided by PERB's Division of State Mediation and Conciliation Service (SMCS), or a City or County employer may request that PERB appoint an administrative law judge or other PERB employee to act as the arbitrator.
- Q. How would the public employer or exclusive representative request a list of arbitrators provided by SMCS?
- A. There are two ways by which requests for lists of arbitrators can be obtained from SMCS. The first way is to download and complete the form from the PERB website at: <https://www.perb.ca.gov/csmcs/HowToRequestPanel.aspx>. The second way is to submit the request in letter form and include the contact information for both parties, including e-mail addresses.

The form or letter may be submitted by e-mail or regular mail. If submitting the request by e-mail, the message should include that the payment by check is being sent through regular mail. Requests being submitted through regular mail should include a check(s) or money order for payment.

The e-mail address for SMCS is: smcsinfo@perb.ca.gov. The mailing address is: SMCS, PERB, 1031 18th Street, Sacramento, CA 95811. The main telephone number is: (916) 322-7638.

- Q. What is the fee for the list of seven arbitrators?
- A. The fee is \$50, payable by check or money order. The parties may split the fee and submit two checks in the amount of \$25 each. SMCS does not routinely provide invoices for the payments, but can invoice or provide an IRS Form W-9 if it is required for the internal accounting processes of the parties' organizations.
- Q. What information needs to be provided in the request for the list of arbitrators to be generated?
- A. The request, whether by form or letter, must specify "Interest Arbitration" and a request for a list of seven arbitrators' names. Given the strict timelines for these disputes, the lists will be provided to the requesting parties by e-mail, so e-mail addresses must be included with the contact information. The parties may request that copies also be provided by regular mail.
- Q. After the parties receive the list of arbitrators what must they do?
- A. The parties can either agree to their own selection procedure, or follow the procedure set forth in the statute—starting with a coin toss as to who begins striking names from the list, and then alternatively striking one name from the list until only one remains. Regardless of the selection method, the process must be completed within seven days of the receipt of the list and the parties should notify SMCS of the candidate selected.
- Q. Who will bear the cost of the arbitrator selected from the SMCS list or an arbitrator mutually agreed upon by the parties?
- A. The parties shall equally share the cost of the arbitrator.
- Q. How would a City or County employer request that PERB assign one of its administrative law judges or other employees to conduct and decide the interest arbitration?
- A. The City or County employer would, within five days of the exclusive representative's demand for interest arbitration, file a written request with PERB's Chief Administrative Law Judge pursuant to PERB Regulation 32135, 32090 or 32091, that it is requesting PERB to appoint one of its administrative law judges or other employees to preside over the interest arbitration. The City or County may file electronically at PERBe-file.ALJ@perb.ca.gov, or mail the request to: PERB, Chief Administrative Law Judge, 1031 18th Street, Sacramento, California 95811.
- Q. After the City or County employer requests that PERB appoint an administrative law judge or other employee to preside over the interest arbitration, what will happen next?
- A. Upon receipt of the request from the City or County, the Chief Administrative Law Judge will assign the hearing to a PERB administrative law judge or other employee within five days.

- Q. Who will pay the cost of the PERB administrative law judge or other employee to conduct and decide the interest arbitration?
- A. The cost of PERB conducting the arbitration shall solely be borne by the City or County making the request of assignment to PERB.
- Q. What is the cost to PERB in conducting the interest arbitration?
- A. PERB has adopted the rate set forth for an Administrative Law Judge in the Department of General Services Price Book for the Office of Administrative Hearings. The current rate in the Department of General Services Price Book (Price Book) is \$229 an hour, however, that rate will soon be updated and most likely increased. The Price Book is posted at <https://www.documents.dgs.ca.gov/ofs/PriceBook/PricebookCurrentVersion.pdf>. Additionally, services must be established via the State of California contracting process that must contain general terms and conditions (<http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>).

Filing PECC Charges

- Q. What if the employer has violated section(s) 3556, 3557, or 3558 of the PECC? Can I ask PERB to investigate this violation?
- A. Yes, PERB will process alleged violations of the PECC as unfair practice charges, using the investigation process contained in PERB Regulation. It is suggested that charging parties use the form provided by PERB tailored to PECC Charge allegations. Respondents to a PECC Charge alleging violations of section 3558 are encouraged to utilize a guided response form that will also be provided.
- Q. What information do I need to file a PECC charge with PERB?
- A. The Charging Party should be prepared to provide detailed information, including relevant dates, employee names and a detailed description of the nature of the violation.
- Q. What happens after a PECC Charge is filed?
- A. The Office of the General Counsel will schedule an initial conference call between the parties' representatives, so that the parties can discuss the issues raised in the charge and voluntary resolution of the case. If the matter is not resolved, the Office of the General Counsel will investigate the allegations and determine whether to issue a complaint or dismiss the charge.
- Q. What deadlines will apply to responding to a PECC Charge?
- A. When a PECC Charge is filed, the Office of the General Counsel will promptly notify the parties in writing of the deadlines for responding to a charge, and the date of the initial conference call. The Respondent's position statement typically will be due within two weeks of the filing of the charge. To speed the processing of these types of charges, parties are encouraged to use PERB's E-file system and to consent to electronic service.